

Before the
COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

Distribution of Cable Royalty Funds

**DOCKET NO. 16-CRB-0009 CD
(2014–17)**

PUBLIC TELEVISION CLAIMANTS’ NOTICE OF CONTROVERSY

Pursuant to the Judges’ April 5, 2021 *Scheduling Order and Notice of Voluntary Negotiation Period* ([Scheduling Order](#)) in the captioned proceeding, Public Broadcasting Service (PBS) hereby submits this Notice of Controversy on behalf of copyright owners of programs broadcast on U.S. noncommercial educational television stations that are retransmitted by cable operators (Public Television Claimants). The Scheduling Order requires all participants to engage in good-faith settlement negotiations aimed at resolving controversies regarding ultimate distribution of the royalty funds for the years at issue, “including all issues traditionally addressed in allocation phase and distribution phase proceedings.” Scheduling Order at 1. As instructed by the Scheduling Order, the Public Television Claimants submit this Notice to address controversies between their category and other categories, and controversies within the Public Television Claimants’ category; and to propose a schedule for further proceedings.

First, a controversy exists as to the share of royalties that the Public Television Claimants should receive from the available royalty funds for the years 2014 through 2017, as allocated among the categories described in Exhibit A to the Judges’ April 5, 2021 *Order Lifting Stay and Adopting Claimant Categories* ([Order Lifting Stay](#)) in the captioned proceeding. PBS and other participants engaged in good-faith negotiations with respect to these issues; however, a controversy remains over the appropriate allocation of available funds to the Public Television Claimants and to each of the other claimant groups.

Second, at this time there remain certain potential controversies with respect to the distribution of royalties within the Public Television Claimants' category, although productive discussions remain ongoing. Specifically, Crowell & Moring LLP and Lutzker & Lutzker LLP alleged that they represent certain claimants who may be eligible to collect royalties from the Public Television Claimants category. *See* Joint Petition to Participate of the Commercial Television Claimants, Docket No. 16-CRB-0009 CD, at 2 & Ex. A (Mar. 11, 2019) ([CTV Petition](#)); Settling Devotional Claimants Joint Petition to Participate, Docket No. 16-CRB-0009 CD, at 3 & Attach. 1 (Mar. 8, 2019) ([SDC Petition](#)). Although final resolutions have not yet been confirmed, PBS is optimistic that these potential controversies regarding distribution within the Public Television Claimants' category will be resolved without involvement by the Judges.¹

Finally, attached at Exhibit A is the Public Television Claimants' proposed schedule for further proceedings to resolve the existing controversy concerning the allocation of the cable royalty funds in years 2014 through 2017 among the claimant groups.²

¹ PBS reserves the right to identify additional controversies in response to filings of other claimants, rulings of the Judges, or further information.

² Most of the intervals between events in this proposed schedule are generally consistent with the case schedule that the Judges ordered on July 21, 2016, in the proceeding to determine the distribution of cable royalty funds for the prior period of years 2010 through 2013. *See* Order Regarding Discovery, Exhibit A, *In re Distribution of Cable Royalty Funds*, Consolidated Proceeding No. 14-CRB-0010-CD (2010–13) (July 21, 2016) ([2010-13 Scheduling Order](#)).

July 19, 2021

Respectfully submitted,

/s/ Dustin Cho

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EXHIBIT A

Public Television Claimants' Proposed Schedule for Further Proceedings on Allocation Phase Issues

Case Event	Proposed Date
Deadline to file Written Direct Statements on Allocation Issues (WDS-A) ³	Dec. 6, 2021
End of discovery on WDS-A ⁴	Feb. 4, 2022
Deadline to file amended WDS-A ⁵	Feb. 21, 2022
Settlement conference period ⁶	Feb. 4, 2022 – Feb. 25, 2022
Deadline to file settlement conference report	Mar. 4, 2022
Deadline to file Written Rebuttal Statements on Allocation Issues (WRS-A)	Apr. 20, 2022
End of discovery on WRS-A	May 20, 2022
Hearing commences	Sept. 2022
Determination ⁷	Jan. 25, 2023

³ Given the end of the voluntary negotiation period on July 12, 2021, the Judges must set a deadline for written direct statements that is no earlier than November 12, 2021 and no later than December 13, 2021. *See* 17 U.S.C. § 803(b)(6)(C)(i); 37 C.F.R. § 351.4(a).

⁴ Discovery in connection with written direct statements generally shall be permitted for a period of 60 days. *See* 17 U.S.C. § 803(b)(6)(C)(iv).

⁵ Amended written direct statements are due within 15 days after the close of discovery. *See* 37 C.F.R. § 351.4(c); *see also* 17 U.S.C. § 803(b)(6)(C)(i).

⁶ *See* 17 U.S.C. § 803(b)(6)(C)(ix); 37 C.F.R. § 351.7.

⁷ *See* 17 U.S.C. § 803(c)(1); 17 C.F.R. § 352.2.

Proof of Delivery

I hereby certify that on Monday, July 19, 2021, I provided a true and correct copy of the Public Television Claimants' Notice of Controversy to the following:

Commercial Television Claimants / National Association of Broadcasters, represented by John Stewart, served via ESERVICE at jstewart@crowell.com

Broadcast Music, Inc. (BMI), represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@dbr.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

National Public Radio, represented by Gregory A Lewis, served via ESERVICE at glewis@npr.org

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via ESERVICE at ted@copyrightroyalties.com

Canadian Claimants, represented by Lawrence K Satterfield, served via ESERVICE at lksatterfield@satterfield-pllc.com

Joint Sports Claimants, represented by Michael E Kientzle, served via ESERVICE at michael.kientzle@arnoldporter.com

Multigroup Claimants, represented by Brian D Boydston, served via ESERVICE at brianb@ix.netcom.com

Program Suppliers, represented by Lucy H Plovnick, served via ESERVICE at lh@msk.com

Devotional Claimants, represented by Matthew J MacLean, served via ESERVICE at matthew.maclean@pillsburylaw.com

ASCAP, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Signed: /s/ Dustin Cho